

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEREMIAH AVERY PORTER,

Petitioner,

V.

UNITED STATES OF AMERICA,

## Respondent.

Case No. C05-5448FDB

## ORDER DENYING CERTIFICATE OF APPEALABILITY

Petitioner entered into a plea agreement and was sentenced pursuant thereto. Petitioner then filed this cause of action pursuant to 28 U.S.C. § 2255 asserting ineffective assistance of counsel. This Court noted that Petitioner's counsel did file a memorandum concerning six factual errors in the Pre-Sentence Report and Petitioner failed to show what unaddressed errors, if any, prejudiced him. Finally, Petitioner was sentenced pursuant to his agreed sentence, and the Sentencing Guidelines did not control his sentence. There are no fairly debatable questions of constitutional magnitude, and a certificate of appealability must be denied.

IT IS ORDERED: Certificate of appealability is DENIED.

DATED this 6<sup>th</sup> day of March, 2006.

4, 2006.

FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE

## ORDER - 1